

GILBERT, KELLY, CROWLEY & JENNETT LLP
 TIMOTHY KENNA, P.C.
 1055 West Seventh Street, Suite 2000
 Los Angeles, California 90017-2577
 Telephone: (213) 580-7000
 Facsimile: (213) 580-7100
 Attorneys for Plaintiffs
 UNDERWRITERS INSURANCE COMPANY, NORTH
 AMERICAN CAPACITY INSURANCE CO.

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

NORTH AMERICAN CAPACITY
 INSURANCE COMPANY, as successor in
 interest to UNDERWRITERS INSURANCE
 COMPANY,

Plaintiffs,

v.

TURNER CONSTRUCTION COMPANY, a
 corporation; JAMES E. ROBERTS-OBAYASHI
 CORPORATION; WILLIAM LYONE HOMES,
 INC., a corporation, DAME CONSTRUCTION
 CO., INC., a corporation, GONSALVES &
 SANTUCCI, d/b/a CONCO CEMENT
 COMPANY;,,

Defendants.

) Case No. C03-05521WDB

) **STIPULATION AND ORDER OF**
) **DISMISSAL PURSUANT TO FEDERAL**
) **RULE OF CIVIL PROCEDURE 41(a)(1)**

IT IS HEREBY STIPULATED by and between Plaintiff, NORTH AMERICAN
 CAPACITY INSURANCE ("NAC") and Defendant, ZURICH AMERICAN INSURANCE
 COMPANY, a corporation, by and through their undersigned counsel that the complaint of NAC,
 and all related causes of action, against ZURICH AMERICAN INSURANCE COMPANY, are
 hereby dismissed with prejudice pursuant to Federal Rule of Civil Procedure, Rule 41(a)(1).

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1 As a result of a settlement reached between the parties, each side is to bear their own fees
2 and costs herein.

3 Dated: March 23, 2006

4 GILBERT, KELLY, CROWLEY & JENNETT LLP

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6 By: /S/

7 TIMOTHY KENNA, P.C.
8 Attorneys for Plaintiff
9 NORTH AMERICAN CAPACITY
INSURANCE CO. AS SUCCESSOR IN
INTEREST TO UNDERWRITERS
INSURANCE COMPANY

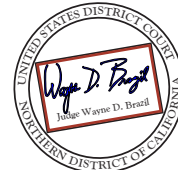
10 Dated: February 1, 2006

11 SINNOT, DITO, MOURA & PUEBLA LLP

12
13 By: /S/

14 JO LYNN POLLARD
15 Attorneys for Defendant
ZURICH AMERICAN INSURANCE
COMPANY

16 IT IS SO ORDERED



17 Dated: April 3, 2006

18 By: _____

19 HONORABLE WAYNE D. BRAZIL
20 UNITED STATES MAGISTRATE JUDGE
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